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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,714

11/06/2006

John William Newton

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EXAMINER

GREGORY, BERNARR E

ART UNIT

PAPER NUMBER

3662

MAIL DATE

DELIVERY MODE

01/21/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/554,714	Applicant(s) NEWTON, JOHN WILLIAM	
	Examiner Bernarr E. Gregory	Art Unit 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,11,13,22-24,29,30,32,34-38,42,44,50,53-56,60,61 and 67-93 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,11,13,22-24,29,30,32,34-38,42,44,50,53-56,60,61 and 67-93 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3-7, 11, 13, 22-24, 29, 30, 32, 34-38, 42, 44, 50, 53-56, 60, 61 and 67-93 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Lines 6-8 of independent claim 1 are indefinite and unclear in context in that in the ordinary sense of the term “autopilot,” an autopilot would not act to maneuver an aircraft toward a target.

Substantially the same problem occurs in independent claim 32 with respect to the word “autopilot” in that claim together with the text on lines 4-7 of that claim.

Dependent claims 3-7, 11, 13, 22-24, 29, 30, and 67-80 are unclear at least in that they depend from unclear independent claim 1.

Dependent claims 34-38, 42, 44, 50, 53-56, 60-61, and 81-93 are unclear at least in that they depend from unclear independent claim 32.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-7, 11, 13, 22-24, 29, 30, 32, 34-38, 42, 44, 50, 53-56, 60, 61 and 67-93 are rejected under 35 U.S.C. 102(b) as being anticipated by a bomber in cruise in level flight near a target area being controlled by autopilot.

Looking at independent claim 1, a bomber would have ailerons and elevators as "two wing control surfaces" that are spaced apart at different points along the aircraft and that are automatically synchronized in operation. The keeping of level flight toward a target area of the aircraft by the autopilot would meet the limitations of lines 6-8 of claim 1.

The further limitations of dependent claims 3-7, 11, 13, 22-24, 29, 30, and 67-80 would be present in the bomber applied against claim 1.

The remarks with respect to method claims 32, 34-38, 42, 44, 50, 53-56, 60-61, and 81-93 are substantially those made above with respect to claims 1, 3-7, 11, 13, 22-24, 29, 30, and 67-80, these claims being directed to the method corresponding to the claimed apparatus of claims 1, 3-7, 11, 13, 22-24, 29, 30, and 67-80.

5. The Specification is hereby objected to under 37 CFR 1.71 as failing to teach adequately how to make and to use the invention.

Applicant has failed in the Specification to teach one of ordinary skill-in-the-art how to make and to use the invention with an autopilot that can perform the functions recited on lines 6-8 of independent claim 1 and on lines 4-7 of claim

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32. Such functions are beyond the capability of an autopilot, so that one of ordinary skill-in-the-art could not modify an autopilot to perform these claimed functions without undue experimentation.

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1, 3-7,11,13, 22-24, 29, 30, 32, 34-38, 42, 44, 50, 53-56, 60, 61 and 67-93 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Please see the remarks in the objection to the Specification in section 5 above.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr E. Gregory whose telephone number is (571) 272-6972. The examiner can normally be reached on weekdays from 6:30 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza, can be reached on (571) 272-6979. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Bernarr E. Gregory/
Primary Examiner, Art Unit 3662